DOCKET FILE COPY ORIGINAL

RM-8179

ORIGINAL

Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

MAR 1 9 1993

r	EUr.	CHALLOMMUNICATIONS COMMISSION	
	1	OFFICE OF THE SECRETARY	
	1		
	/		
į	1		

In re Request of

CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

For Declaratory Ruling and Amendment of the Commission's Policies and Rules Pertaining to the Regulation of Cellular Carriers

To: The Commission

COMMENTS OF TELOCATOR

Telocator, the Personal Communications Industry
Association, hereby submits its comments in support of the
Request for Declaratory Ruling and Petition for Rulemaking
("Petition") filed by the Cellular Telecommunications
Industry Association ("CTIA") on January 19, 1993.
Telocator urges the Commission to grant CTIA's request that
cellular carriers be officially designated as non-dominant
for purposes of applying any federal tariffing requirements
that may ultimately attach under the D.C. Circuit's decision
in American Telephone and Telegraph Company v. Federal
Communications Commission.
2

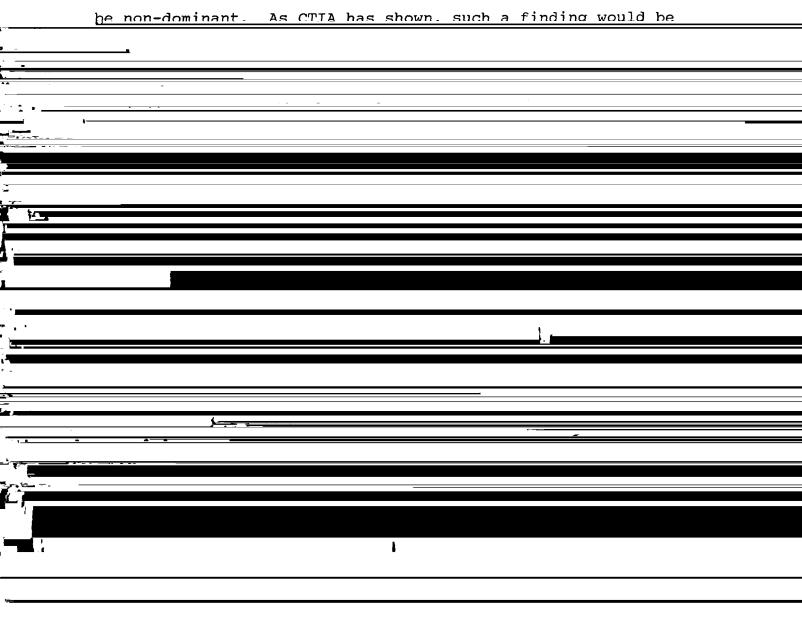
Telocator intends to file comments on the Commission's pending Notice of Proposed Rulemaking in which the agency

ibs. of Copies recid_

See Public Notice, Report No. 1927 (February 17, 1993).

No. 92-1053, slip op. (D.C. Circuit November 13, 1992).

tentatively concludes that the existing rules governing nondominant carrier tariffing filings ought to be further
streamlined to remove unnecessary regulatory burdens and to
minimize disruption of the existing competitive marketplace
for non-dominant carrier services.³ In order to achieve
those laudable objectives with respect to the marketplace for
cellular services, the FCC must first find those carriers to
be non-dominant. As CTIA has shown, such a finding would be



improvements in landline telephony continue to increase choices for subscribers.

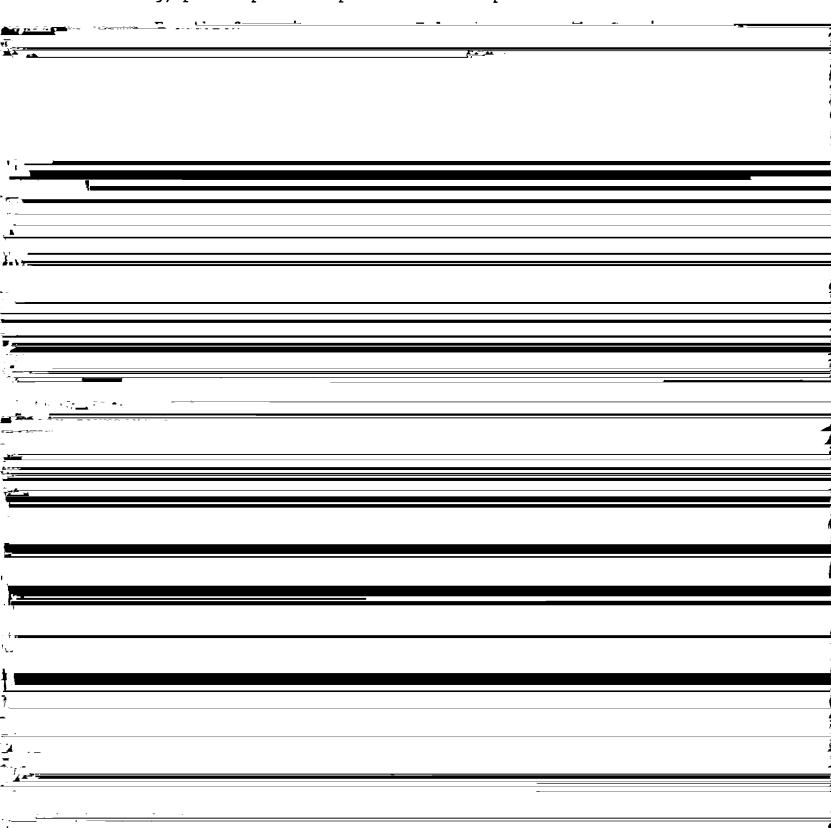
Significantly, the Commission has consistently found carriers to be non-dominant even in market situations that may be less competitive than that of cellular. For example, the FCC concluded that the MSS operator is non-dominant even in a monopoly license situation because of the existence of substitutable services.⁴ It has also tentatively found LMDS licensees opting for common carrier status to be non-dominant in a duopoly market.⁵

Equally importantly, application of the dominant carrier tariffing rules in cellular markets would have a pernicious effect on existing competition to the detriment of the public. The revelation of proprietary cost data and the public filing of all details concerning service offerings would inhibit market responsiveness. The filing periods and other restrictions attendant to tariffs likewise would unreasonably delay the implementation of whatever service innovations could still be justified. As such, a failure on the part of the Commission to declare cellular carriers to be non-

See Land Mobile Satellite Service, Second Report and Order, 2 FCC Rcd 485, 490 (1987) (subsequent history omitted).

See Local Multipoint Distribution Service, Notice of Proposed Rulemaking, FCC 92-538 (rel. Jan. 8, 1993), ¶ 27.

dominant would run directly counter to its consistently strong, pro-competitive public interest policies.



CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of March, 1993, I caused copies of the foregoing "Comments of Telocator" to be mailed via first-class postage prepaid mail to the following:

Michael F. Altschul
Vice President and
General Counsel
Cellular Telecommunications
Industry Association
Two Lafayette Centre, Suite 300
1133 21st Street, N.W.
Washington, D.C. 20036

Rancy a Betters
Namey A. Betters